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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,892	06/17/2002	Kersten Zaar	12405	8214
7590	05/06/2005		EXAMINER	
Orum & Roth 53 West Jackson Boulevard Chicago, IL 60604			LE, VU	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/031,892

Applicant(s)

ZAAR, KERSTEN

Examiner

Vu Le

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Double Patenting***

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claim 9 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 20. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakiyama et al, US 5,022,383.

Re claim 1, Sakiyama discloses a cable drum for a video endoscope (fig. 1), with a stand (9) on which the cable drum (3) is pivoted arranged, with an endoscope (2), designed as probe (22, also fig. 6), which exhibits a video sensor (30) with connected lines (33) for the voltage supply of the video sensor and for the transfer of the signals supplied from the video camera, whose lines are wound up on the cable drum (fig. 1) and are electrically interconnected with a slip ring (figs. 2, 7:90) attached to the stand (9), characterized by the fact that the probe exhibits at least one optical cable (fig. 6: 45), whose beginning is inserted into the cable drum, that the front surfaces of the optical light guides (fig. 6: 44) at the beginning of at least one optical cable (fig. 6:45) are arranged in such a manner opposite each one daylight lamp (figs. 1-2:16) connected with the cable drum (9, see also fig. 2) that light can be coupled to the front surfaces, that the front surfaces of the optical light guides are arranged at the end of at least one optical cable (fig. 2) close to the video sensor (30) for the lighting of the surrounding to be filmed by the video sensor with the light emerging from the ends of the optical light guides and that the daylight lamps (16) are supplied with electric current through the slip ring (90). (See also col. 7, line 12 – col. 13, line 47).

Re claim 2, the cable drum according to claim 1, characterized by the fact that a circular cover plate is firmly connected with the stand, which covers a central and open towards the front hollow space of the cable drum. (See fig. 1, which illustrates the drum 3 comprising two side circular cover plates with a hollow center. The drum 3 attaches to the stand 9).

Re claim 3, the cable drum according to claim 2, characterized by the fact that plug sockets (figs. 7-8: 83) which are electrically interconnected with the slip ring (90) at the cover plate (see fig. 8) are arranged for the output of the signals supplied by the video sensor (30).

Re claim 5, a cable drum according to claim 2, characterized by the fact that in the hollow space a power supply connected mechanically with the stand is arranged, which is electrically attached to the slip ring, and that at the cover plate a plug socket for AC voltage, connected with the power supply, is arranged. (See col. 15, line 15-19, also figs. 21-22).

Claim 13 has been analyzed and rejected w/r to claim 5 above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakiyama et al, US 5,022,383.

Re claims 9 & 20, a cable drum according to claim 1, characterized by the fact that the lamps are designed as arc lamps. Sakiyama discloses a lamp source (See fig. 2: 16a), but does not specifically disclose an arc lamp as claimed. Official Notice is taken to note that arc lamp is notoriously well known and used in the related art and

would have been obvious to utilize as a lamp source in Sakiyama for the benefit of brighter illumination since arc lamp is designed for intense illumination.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 6-8, 10-12, 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakiyama et al as applied to claims 1-2 above and further in view of Hasegawa et al, US 6,371,907.

Re claim 4, Sakiyama fails to further teach in the hollow space of the drum is arranged a re-chargeable battery, which is mechanically attached to the stand and electrically connected to the slip ring, and that at the cover plate a plug socket for DC voltage, electrically connected with the battery, is attached. Hasegawa discloses a secondary battery such as a lead battery, which is rechargeable, in the drum portion whenever AC power supply is not used (col. 16, line 49-59). Therefore, the combined teaching of Sakiyama and Hasegawa would have rendered obvious utilization of a rechargeable battery arranged in the drum as claimed for the benefit of long term use and as a source of alternative power supply.

Re claim 6, Sakiyama fails to further teach that the centrally located hollow space of the cable drum is surrounded by a ring-shaped hollow space, in which the lamps are

arranged and into which the beginning of at least one optical cable is inserted.

Hasegawa discloses such aspects (fig. 16, col. 15, line 40 – col. 16, line 59) in which a lamp (188-189) is arranged within the drum's hollow space and into which the beginning of at least one optical cable (187) is inserted. Therefore, the combined teaching of Sakiyama and Hasegawa would have rendered obvious the arrangement of the lamps within the hollow space of the drum as claimed for the benefit of a more compact endoscope apparatus (Hasegawa, col. 13, line 28-32).

Re claim 7, a cable drum according to claim 6, characterized by the fact that in the ring-shaped hollow space a circuit is arranged for the control of the video camera. (See Hasegawa, fig. 16:133 "CCU" i.e. camera control unit).

Re claim 8, a cable drum according to claim 6, characterized by the fact that at the wall of the ring-shaped hollow space near the lamps a fan for cooling the lamps supplied with current by the power supply is arranged. The combined teaching of Sakiyama and Hasegawa fails to disclose a fan for cooling the lamps within the hollow space of the drum. However, Official Notice is taken to note that cooling mechanism such as cooling fan, exhaust vent or the like are notoriously well known in the related art for enhancing heat dissipation, especially in enclosed chamber, and thus would have been obvious and beneficial to utilize here to enhance heat dissipation of the lamps.

Re claim 10, Sakiyama discloses a lamp source (See fig. 2: 16a), but does not specifically disclose xenon lamps as claimed. Hasegawa teaches xenon lamp as one of the alternative lamp sources (col. 15, line 54-56). The combined teaching of Sakiyama

and Hasegawa would have rendered obvious a xenon lamp source as claimed as an alternative lamp source.

Re claim 11, Sakiyama discloses a lamp source (See fig. 2: 16a), but does not specifically disclose metal halide lamps as claimed. Hasegawa teaches metal halide lamp as one of the alternative lamp sources (col. 15, line 54-56). The combined teaching of Sakiyama and Hasegawa would have rendered obvious a metal halide lamp source as claimed as an alternative lamp source.

Claim 12 has been analyzed and rejected w/r to claim 4 above.

Claim 14 has been analyzed and rejected w/r to claim 4 above.

Claim 15 has been analyzed and rejected w/r to claim 6 above.

Claims 16-17 have been analyzed and rejected w/r to claim 6 above.

Claim 18 has been analyzed and rejected w/r to claim 8 above.

Claim 19 has been analyzed and rejected w/r to claim 6 above. Hasegawa teaches metal halide i.e. arc lamp (col. 15, line 54-56).

#### ***Information Disclosure Statement***

9. The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW)



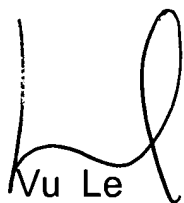
system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609 subsection III. A(1) states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609 subsection III. C(1).

### **Contact**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Le whose telephone number is (571) 272-7332. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-7332.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Vu Le', with a stylized loop at the end.

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